

# ORIGINAL

DeGuzman.rsp

LEONARDO M. RAPADAS  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 500, Sirena Plaza  
108 Hernan Cortez Avenue  
Agana, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334

Attorneys for United States of America

**FILED**  
DISTRICT COURT OF GUAM

AUG 25 2005 *JP*

**MARY L.M. MORAN**  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
vs.  
  
ROLAND ASPRER DEGUZMAN,  
  
Defendant.

CRIMINAL CASE NO. 00-00052

GOVERNMENT'S RESPONSE TO  
DEFENDANT'S MOTION TO  
DISMISS

SUMMARY OF FACTS

Defendant was a lesser player in a large-scale drug ring headed by Mario Mercader and Edith Fuller. Their operation was the subject of an OCDETF investigation (Operation One-Pass), with DEA the lead agency. Both Mercader and Fuller have fled to the Philippines; the United States is attempting to return them to Guam for trial.

Mercader had worked on the Lufthansa Services Group (LSG) graveyard shift in the early 1990s, and realized that the daily Continental flights from Manila to Guam provided an ideal mechanism for smuggling ice. The flights arrived about 4:30 a.m. daily and were serviced by LSG employees, who boarded them to restock the plane's beverages. The aircraft returned to Manila later the same day. Mercader devised a scheme whereby he would purchase ice in the

Philippines and hire couriers to carry it from Manila to Guam. Before deplaning, however, and running the gauntlet of Guam Custom's drug dogs and inspection teams, the couriers would hide the ice in designated seats, or in one of the aircraft lavatories. Mercader paid members of LSG's graveyard shift to retrieve the ice when they boarded the aircraft to service it, and carry it out of the airport at the end of their shift. The plan was virtually fool-proof, because there were no procedures to search employees leaving the airport. Mercader employed other people to receive the ice from the LSG employees, and sell it. By the time the DEA closed down his ring, Mercader had every member of the LSG graveyard shift on his payroll.

The investigation started in early 1997 with the arrest of three individuals who were trafficking for Mercader, one of whom agreed to cooperate with the government and laid out the logistics of Mercader's operation. During successive arrests and prosecutions, and by offering the opportunity for "substantial assistance," the DEA and this office were able to infiltrate the organization and identify its members. By February, 1999, the government had arrested, convicted and secured the cooperation of Merna Zabala, Juanito Portacio, Barbara Gaza, Allen Candelaria, Edgardo Remedios, Jose Golveo, Pablo Madlangbayan, Roy Eay and Tanya Goolsby. It had identified another ten members of the ring and was actively building cases against them. All these defendants pled guilty to informations, and all the cases were sealed, so that DEA could continue to penetrate the organization without being detected.

Defendant was working the LSG graveyard shift when the Manila flight arrived on February 4, 1999. Guam Customs had identified two of Mercader's couriers as passengers on the flight. After these two men deplaned, Guam Customs retrieved eight packages of ice from their seats, and replaced them with sham. Officers then mounted surveillance on the aircraft and observed the defendant and Roland Mora board it for servicing. After defendant and Mora left the aircraft, an officer verified the sham had been removed. Defendant and Mora were then arrested, and advised of their rights. Defendant at first denied any knowledge of these scheme and was released. On February 5, 1999, he returned to the DEA office and admitted his

1 involvement. His signed statement is attached hereto as Exhibit 1. He admitted removing ice  
2 from Continental aircraft on several occasions at the behest of fellow-LSG employees Rome  
3 Delima, Roland Mora and Rexileto Glory. He said he was paid \$1,500 per flight for his services.

4 Mora cooperated immediately upon his arrest and was also released. He later consented  
5 to a search of his residence, which led to the recovery of more ice, \$31,460 cash and the eventual  
6 conviction of his roommate. In seeking Mora and the defendant's cooperation, the government  
7 pursued the same strategy it had employed for the other members of the Mercader ring. It  
8 requested the court to appoint attorneys provisionally so that Mora and DeGuzman could  
9 understand just how much trouble they were in, and determine whether it would be in their  
10 interest to plead guilty and attempt to provide substantial assistance. Roland Mora, represented  
11 by counsel Jay Arriola, pled guilty to an information charging possession with intent to  
12 distribute ice on February 17, 1999. Copies of his information, waiver of indictment and guilty  
13 plea are attached hereto as Exhibit 2. The plea was entered under seal, and Mora began working  
14 with the DEA.

15 Defendant was offered the same deal: on February 12 the government forwarded a  
16 proposed information and plea agreement to his counsel Basil O'Mallen. Copies of that  
17 correspondence, information and plea agreement are attached hereto as Exhibit 3. The defendant  
18 chose not to work for the government, but rather to leave island. According to Mora, he quit  
19 LSG and left. The government has subpoenaed LSG for his employment records, but the  
20 company cannot locate them. The DEA did not look for defendant, or attempt to arrest him,  
21 because it was still running this undercover investigation.

22 Mora proved a valuable resource for the government. With his help, several loads of ice  
23 were intercepted and consensually recorded conversations were made between Mora and Edith  
24 Fuller in the Philippines. As a result of his cooperation, Richard Cacayurin Gonzales was  
25 arrested and pled guilty to an information under seal on July 20, 1999. By April, 2000, the DEA  
26 had built strong cases against the central distributors, Mario Mercader, Editha Fuller and Danny  
27

1 Marquez. The operation was closed down and several people were indicted in addition to Fuller  
2 and Mercader: the defendant: June Nario Quindo, Cynthia Sulpacio, Larry Blas, Rexielto Glory,  
3 Don Crisologo, Romulo Delima, and Danny Marquez. Fuller was arrested in the Philippines a  
4 week ago; Mercader is still in hiding, but every other person has pled guilty and been sentenced,  
5 with the exception of the defendant. Some are still in a federal penitentiary, others are on  
6 supervised release. They are all available to testify at defendant's trial.

7 The defendant was indicted April 26, 2000. The DEA should have submitted a "Form  
8 202" to the U.S. Marshals Service to ensure the warrant was entered into the NCIC system, and a  
9 nation-wide alert placed for him. This was not done until 2004, when in response to repeated  
10 inquiries from this office, the Marshals Service checked the NCIC and realized defendant had not  
11 been entered. Deputy Marshal David Punzalan entered his warrant and biographical data May 6,  
12 2004. See Exhibit 4. In the meantime Operation One-Pass was closed, and the case agent, Erfel  
13 Mantanguihan, returned to his duties with the Guam Police Department. The DEA assumed  
14 defendant's warrant was in the system. No one attempted to locate any of his relatives on Guam  
15 to learn his whereabouts because Mora had told S/A Mantanguihan defendant had fled to the  
16 Philippines. He was not arrested until May of this year, at the Guam International Airport. Thus,  
17 the post-indictment delay in this case is slightly over four years.

#### 18 THE LAW

19 The government concedes negligence in failing to arrest the defendant more promptly.  
20 Although he had left Guam, no effort was made to contact his family members to try to ascertain  
21 his whereabouts. Moreover, his passport reflects that he passed through INS inspection at the  
22 Guam International Airport June 26, 2003. See Exhibit 5. Had his warrant been in the NCIC, he  
23 would have been arrested then, at the very latest.

24 To no one's surprise, he has filed this motion to dismiss for violations of his Sixth  
25 Amendment right to a speedy trial due to post-indictment delay.

26 Whether defendant's post-indictment right to speedy trial has been violated is determined  
27

1 by four considerations, set forth in Barker v. Wingo, 407 U.S. 514, 530 (1972 ): “Length of  
2 delay, the reason for the delay, the defendant’s assertion of his right, and prejudice to the  
3 defendant.” *Id.* at 530. “Until there is some delay which is presumptively prejudicial, there is  
4 no necessity for inquiry into the other factors that go into the balance. Nevertheless, because of  
5 the imprecision of the right to speedy trial, the length of delay that will provide such an inquiry is  
6 necessarily depending upon the peculiar circumstances of the case.” *Id.* The reason for delay is  
7 also important. “A deliberate attempt to delay the trial in order to hamper the defense should be  
8 weighted heavily against the government. A more neutral reason such as negligence or  
9 overcrowded courts should be weighted less heavily, ....” *Id.* at 531. Prejudice “should be  
10 assessed in the light of the interests of defendant which the speedy trial right was designed to  
11 protect. This Court has identified three such interests: (i) to prevent oppressive pretrial  
12 incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility  
13 that the defense will be impaired.. *Id.* at 532. Finally, none of these four factors “is either a  
14 necessary or sufficient condition to the finding of a deprivation of the right to speedy trial.  
15 Rather, they are related factors and must be considered together with such other circumstances as  
16 may be relevant.” *Id.* at 533. Under this standard, the defendant had the burden of showing  
17 actual prejudice to prove a violation of his post-indictment speedy trial rights.

18 Doggett v. United States, 505 U.S. 647 (1992) created a significant exception to this  
19 requirement. There, eight years passed between the time of the indictment and defendant’s  
20 arrest. The delay was entirely the government’s fault, and the defendant could not be faulted for  
21 not demanding his speedy trial rights, because he did not know he had been charged. The district  
22 court, however, had denied his motion to dismiss because he could not make any affirmative  
23 showing that the delay had prejudiced him.

24 The Court first noted that this delay was “presumptively prejudicial,” thereby triggering a  
25 judicial examination of his claim. The length of delay is important, because “the presumption  
26 that pretrial delay has prejudiced the accused intensifies over time.” *Id.* at 652. In view of the  
27  
28

1 inexcusable eight-year delay, the Court held that the defendant did not have to demonstrate  
2 prejudice, but rather it would be presumed, and the government would have to “persuasively”  
3 rebut it. *Id.* at 658.

4 A delay of as little as 13 months is presumptively prejudicial and triggers a Barker  
5 inquiry. United States v. Murillo, 288 F.3d 1126 (9<sup>th</sup> Cir. 2002). Even a six-month delay  
6 presents a “borderline case.” United States v. Valentine, 783 F.2d 1413, 1417 (9<sup>th</sup> Cir. 1986). A  
7 post-indictment delay of four years obviously does so. The issue is whether, under all the  
8 circumstances, Barker requires the government to prove that his defense has not been impaired  
9 by this delay, and whether the government can do so.

10 The first two factors establish an excessive delay which was largely due to the  
11 government’s negligence. The third factor, whether defendant exercised his rights to a speedy  
12 trial, is not so clear. In this case, he knew that he was going to be charged with drug trafficking:  
13 he could either plead guilty now, or if he declined to attempt to give substantial assistance, be  
14 charged later. United States v. Aguirre, 994 F.2d 1454 (9<sup>th</sup> Cir. 1993) is somewhat on point.  
15 There, the defendant was in England when he was advised a complaint had been filed against  
16 him in California. He obtained an affidavit from the Embassy asking for a continuance. But  
17 when he returned to California, he did not contact the authorities or make any inquiry into the  
18 status of the case. He moved to Arizona and was arrested five years later on an indictment. The  
19 district court found that he knew of the charges against him and failed to answer them. The  
20 Ninth Circuit counted this against him. “Aguirre could have, at any moment, ended the delay  
21 and avoided any prejudice caused by the passage of time. He only had to get in touch with  
22 federal authorities and tell them his whereabouts, as he promised to do. Failing to assert his  
23 speedy trial right, Aguirre’s inaction contributed to the delay; accordingly, he is entitled to no  
24 presumption of prejudice.” *Id.* at 1458. The court required Aguirre to actually show he had been  
25 prejudiced by the delay, which he was unable to do. In Aguerre, however, the district court had  
26 found that the government was diligent in seeking the defendant, a factor missing here.


Were this court to find that the burden of proving prejudice has been shifted, so that the government bears the burden of proving the delay has not prejudiced him, the government submits that it can do so. The traditional factors to show prejudice are oppressive pretrial incarceration, anxiety and concern of the accused, and the possibility that his defense will be impaired. Doggett, 505 U.S. at 654. Here, there has been almost no pretrial incarceration, and if defendant claims he believed the charges were being dropped, he can hardly have suffered anxiety. Furthermore, there is no possibility of prejudice to his defense. Like the defendant, all of his fellow employees on the LSG night crew were involved in unloading ice from the Continental Manila flights. ALL of his fellow employees have pled guilty and are available for trial. The government still has all of its evidence. Defendant was caught with Mora as they unloaded a shipment; thus, alibi cannot apply. Defendant confessed to his involvement with Mora; were he to claim duress, for example, Mora is available as a witness. Given the facts of this case, it is difficult to foresee what defense defendant could mount to this charge, but whatever it may be, it will not be affected by the passage of four years.

For the reasons stated above, defendant's motion should be denied.

Respectfully submitted this 25<sup>th</sup> day of August, 2005.

LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and CNMI

By:

  
KARON V. JOHNSON  
Assistant U.S. Attorney



VOLUNTARY STATEMENT OF: Roland DEGUZMAN Initials: RD.

FILE NUMBER: RB-97-0004 / XNA3I

DATE OF INTERVIEW: February 05, 1999

TIME OF INTERVIEW: 4:15 p.m.

DICTATING AGENT: S/A Jon Anderson

WITNESSING AGENT: TFA Michael Aguon

I am giving the following free and voluntary statement to the above agents, who have identified themselves to me as Agents of the Drug Enforcement Administration. I have been advised that I have the right to remain silent, that any statement I make may be used against me in court or other proceedings, that I have a right to talk to a lawyer before making this statement, that if I cannot afford or otherwise obtain a lawyer one will be appointed for me by the U.S. Magistrate or court, and that I may stop this statement at any time for the purpose of consulting with a lawyer. No threats, force, or promises of rewards have been used to obtain this statement.

I started working at Lufthansa Sky Chefs, Harmon, Guam in April of 1996 as a Delivery Leadman (Delivery D. . . My duties were to "strip and service" the incoming airplanes for all the airlines on Guam. About six months ago, I was approached by Roland MORA and Rome DELIMA, who both work for Lufthansa Sky Chefs, to pick up "drugs" from an airplane. I told them I wanted to think it over. The two never asked me after that. It was about four months ago when I was inside a Continental Airlines airplane stripping and serving with MORA, I was asked again by MORA to take drugs off the airplane. MORA asked me to take from underneath a passenger seat somewhere in the middle section of a Boeing 757. I decided to do what MORA asked me to do after MORA insisted and rushed me. I lifted the cushion from its seating and I saw four packages that were dark brown in color and approximately eight inches in length and two inches in width. When the servicing cabin descended to the truck, I gave MORA the four packages when we were inside the service truck. MORA then placed it inside a back pack in the truck. We drove back to the company and MORA then got out and headed in the direction of his truck while I continued to clean the truck we drove in. About one week later, MORA gave me \$1,500.00 in U.S. currency at work. This was for extracting the four packages of drugs from the plane. During the times I was employed at Lufthansa Sky Chefs, I have been approached by MORA to bring in drugs from the Philippines and also to take drugs from the airplane. Rex GLORY asked me once to take drugs off the airplane and DELIMA also asked me once to take drugs off the plane. During those propositions, I only took drugs off the airplane once. I never knew what kind of drug they were asking me to take off the airplane nor did I know what kind of drug I took off the airplane as well. RD





On February 04, 1999, at about 6:15 a.m., after completing the strip and service of Continental Airlines 912, we were stopped by law enforcement officials in our service truck as we were exiting the airport security gate. When we were stopped, the agents found drugs in a garbage bag at the rear service cabin and immediately took MORA and myself in for questioning. I was later arrested for my knowledge and participation of drugs being smuggled in from the Philippines. RD

I HAVE READ THE FOREGOING STATEMENT. I HAVE INITIALED EACH PAGE AS WELL AS ALL CORRECTIONS. THIS STATEMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I HAVE GIVEN THIS STATEMENT FREELY AND VOLUNTARILY WITHOUT THREATS, COERCION, OR PROMISES.

Land de Bugman 2-5-99 5:30 P.M.  
Signature Date / Time

[Signature] 02-05-99 5:32pm.  
Dictating Agent Date / Time

[Signature] 2/5/99 5:32p  
Witnessing Agent Date / Time

Page(s): (2)  
Initials: RD.

REPORT OF INVESTIGATION

Page 1 of 2


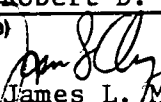
Program Code	2. Cross File <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Related Files	3. File No. RB-97-0004	4. G-DEP Identifier XNA3I
5. By: At: TFA Robert D. Negrito Agana, Guam			6. File Title MERCADER, Mario F. et. al.	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:			8. Date Prepared February 5, 1999	
9. Other Officers: TFA Michael A. Aguon				
10. Report Re: Arrest of Roland Asprer DE GUZMAN on February 4, 1999.				

SYNOPSIS:

On February 4, 1999, Guam Customs Officers located and retrieved about 800 grams(gross weight) of suspected "ice" aboard a Continental aircraft. Agents from the U.S. Customs, Guam Customs Contraband Enforcement Team, Drug Enforcement Administration Task Force conducted a controlled delivery and subsequently (2) TWO Lufthansa employees were taken into custody by the airport.

DETAILS:

1. Reference is made to previous reports submitted under file RB-97-0004.
2. At about 7:28am., February 4, 1999, while at the Guam Customs Contraband Enforcement Team(CET) office, TFA Negrito and TFA Michael A. Aguon advised Roland A. DE GUZMAN of his constitutional rights using the Guam Customs Custodial Interrogation Form in which he acknowledged by signing the waiver of rights portion. Refer to attached Custodial Interrogation Form.
3. At about 7:35am., TFA Negrito and Aguon interviewed DE GUZMAN. In a summary DE GUZMAN mentioned that he has no knowledge of how the "ice" got in their truck and claims his innocence. Refer to DE GUZMAN's written statement form attached.
4. At about 11:00am., January 24, 1999, while at the GRO, TFA Negrito arrested Roland Asprer DE GUZMAN for Conspiracy to Import a controlled substance, Importation of a controlled substance. DE GUZMAN was transported to the Agana Holding Facility to be processed and then confined.

11. Distribution: Division SARI/NII District Other	12. Signature (Agent)  TFA Robert D. Negrito	13. Date 2-5-99
	14. Approved (Name and Title)  RAC James L. Mincey	15. Date 2-5-99

U. S. Department of Justice  
Drug Enforcement Administration

<b>REPORT OF INVESTIGATION</b> <i>(Continuation)</i>	1. File No. RB-97-0004	2. G-DEP Identifier XNA3I
	3. File Title MERCADER, Mario F.. et.al.	
4. Page 2 of 2	6. Date Prepared February 5, 1999	
5. Program Code		

INDEXING SECTION:

1. DE GUZMAN, Roland Asprer: NADDIS unknown, male-Filipino DOB: May 04,1955  
SSN:586-09-1791 HT: 5'5" WT:160lbs Brown eyes, Blk/Gry hair ADD: 167 Pandan  
Court, Liguan Terrace, Dededo, Guam (H) (671)637-8137 (W) (671) 646-5868

REPORT OF INVESTIGATION

Page 1 of

Program Code	2. Cross File Related Files	3. File No. RB-97-0004	4. G-DEP Identifier XNA3I
5. By: S/A Jon Anderson At: Guam resident Office	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	6. File Title MERCADER, Mario F. et. al.	
7. <input type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:		8. Date Prepared February 05, 1999	
9. Other Officers: TFA Michael Aguon			
10. Report Re: INTERVIEW OF ROLAND DEGUZMAN ON 02-05-99.			


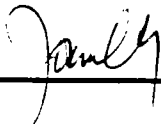
DETAILS

1. Reference is made to all ROIs under this file number and title, in particular, DEA ROI "ARREST OF INTERVIEW OF ROLAND DEGUZMAN ON 02-04-99, by TFA Michael Aguon, dated 02-05-99,

2. On February 05, 1999, at approximately 4:15 p.m., S/A Jon Anderson and TFA Aguon re-interviewed Roland DEGUZMAN at the DEA GRO after his release from prison. DEGUZMAN wanted to recant his 02-04-99 interview in which he denied any involvement in a crystal methamphetamine (a.k.a. "ice") smuggling ring by employees of the Lufthansa Sky Chefs (LSC), Harmon, Guam. The interview was a dictation of DEGUZMAN's interview. DEGUZMAN requested the agents type his statement because of his poor writing abilities.

3. DEGUZMAN said that he first started to work for LSC in April of 1996 as a Delivery Lead man (Delivery Driver). It was about six months ago that DEGUZMAN was approached and asked at separate times by Roland MORA, Rex GLORY and Rome DELIMA, who are also employees of LSC, to smuggle drugs off airplanes originating from the Philippines. DEGUZMAN told the two men he will think it over. DEGUZMAN was also asked by the men to travel, via Continental Airlines, to the Philippines and smuggle in "ice". He declined their offer.

4. It was about four months ago when DEGUZMAN and MORA were inside a Continental Airlines 757 airplane stripping and servicing when MORA asked DEGUZMAN to take four packages out from underneath a passenger seat somewhere in the middle section of the airplane. DEGUZMAN took out the four packages and handed the packages to MORA while the two were inside the service truck. About one week later, MORA gave DEGUZMAN \$1,500.00 in U.S. currency for his

11. Distribution: Division SARI / NII District Other	12. Signature (Agent) S/A Jon Anderson 	13. Date 02-05-99
	14. Approved (Name and Title) RAC James L. Mincey 	15. Date 2-5-99

<b>REPORT OF INVESTIGATION</b> <i>(Continuation)</i>	1. File No. RB-97-0004	2. G-DEP Identifier XNA3I
	3. File Title  MERCADER, Mario F. et. al.	
4. <b>Page of</b>		
5. Program Code	6. Date Prepared February 05, 1999	

part in taking the packages off the airplane. DEGUZMAN said the packages were dark brown in color and about eight inches in length and two inches in width.

4. DEGUZMAN told the agents he never knew what type of drug the men were smuggling off the airplane only that he knew it was illegal. DEGUZMAN said he never knew that there was drugs in Continental Airlines Flight 912 until agents stopped MORA and him at the Guam International Airport security gate where their LSC service truck was searched by the agents.

#### INDEXING

1. DEGUZMAN, Roland; NADDIS # pending; previously described.
2. MORA, Roland; NADDIS # pending; previously described.
3. GLORY, Rex; NADDIS # pending; previously described.
- . DELIMA, Rome; NADDIS # pending; previously described.

MOR.

Mora.Inf

FREDERICK A. BLACK  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 502-A, Pacific News Bldg.  
238 Archbishop Flores St.  
Agana, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334/7215

Attorneys for United States of America

**FILED**  
DISTRICT COURT OF GUAM

FEB 16 1999

MARY L. M. MORAN  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROLAND JOSEPH BALANGON MORA,

Defendant.

CRIMINAL CASE NO.

99-00024

INFORMATION

ATTEMPTED POSSESSION OF  
METHAMPHETAMINE HYDROCHLORIDE  
WITH INTENT TO DISTRIBUTE  
[21 U.S.C. § 841(a)(1)]

THE UNITED STATES ATTORNEY CHARGES:

On or about February 4, 1999, in the District of Guam, the  
defendant herein, ROLAND JOSEPH BALANGON MORA, did unlawfully and  
knowingly attempt to possess approximately 850 grams gross weight  
of methamphetamine hydrochloride, also known as ice, a Schedule

II

//

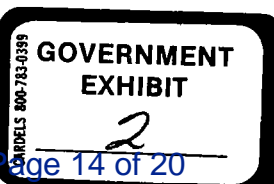
//

//

//

//

COPY



1 controlled substance, with the intent to distribute said ice, all  
2 in violation of 18 U.S.C. § 2 and 21 U.S.C. § 841(a)(1).

3 Dated this 16<sup>th</sup> day of February, 1999.

4 FREDERICK A. BLACK  
5 United States Attorney  
6 Districts of Guam and CNMI

7 By: Karon V. Johnson

8 KARON V. JOHNSON  
9 Assistant U.S. Attorney  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



FILED  
DISTRICT COURT OF GUAM

## United States District Court FEB 16 1999

FOR THE

DISTRICT OF

GUAM

MARY J.M. MORAN  
CLERK OF COURT

UNITED STATES OF AMERICA

V.

## WAIVER OF INDICTMENT

ROLAND JOSEPH BALANGON MORA

CASE NUMBER: 99-00024

I, ROLAND JOSEPH BALANGON MORA, the above named defendant, who is accused ofATTEMPTED POSSESSION OF METHAMPHETAMINE HYDROCHLORIDE WITH INTENT  
TO DISTRIBUTE, IN VIOLATION OF 21 U.S.C. § 841(a)(1)

being advised of the nature of the charge(s), the proposed information, and of my rights, hereby waive  
in open court on February 16, 1999 prosecution by indictment and consent that the  
*Date*  
proceeding may be by information rather than by indictment.

RECEIVED

FEB 17 1999  
GON 11:45 AM  
U.S. Attorney's Office  
District of GuamDefendant Roland Joseph Balangon MoraCounsel for Defendant Joaquin C. Arriola, Jr.

/s/ John S. Unpingco

Case 1:00-cr-00052

Document 24

Filed 08/25/2005

Page 16 of 20

Before

Mora.ple

FREDERICK A. BLACK  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 502-A, Pacific News Bldg.  
238 Archbishop Flores Street  
Agana, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334

Attorneys for United States of America

**FILED**  
DISTRICT COURT OF GUAM

FEB 17 1999

MARY L. M. MORAN  
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
ROLAND JOSEPH BALANGON MORA,  
Defendant.

CRIMINAL CASE NO. 99-00024

AMENDED PLEA AGREEMENT

Pursuant to Rule 11(e)(1)(B), the United States and the defendant, ROLAND J.B. MORA, enter into the following plea agreement:

1. The defendant agrees to waive indictment and enter a guilty plea to an Information charging him with Attempted Possession with Intent to Distribute approximately 850 grams gross weight of methamphetamine hydrochloride (ice), in violation of Title 21 U.S.C. § 841(a)(1).

2. The defendant, ROLAND J.B. MORA, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of the importation, possession, and distribution of controlled substances and related unlawful

1 activities, including the disposition of profits from and assets  
2 relating to such activities. He agrees to testify fully and  
3 truthfully before any grand juries and at any trials or  
4 proceedings if called upon to do so by the United States, subject  
5 to prosecution for perjury for not testifying truthfully. The  
6 United States will make this cooperation known to the Court prior  
7 to the defendant's sentencing. The defendant further understands  
8 that he remains liable and subject to prosecution for any  
9 criminal narcotic schemes of which he does not fully advise the  
10 United States, or for any material omissions in this regard. In  
11 return for this cooperation, the United States agrees not to  
12 prosecute defendant for any other non-violent narcotic offenses  
13 now known to the government or which he reveals to Federal  
14 authorities.

15 3. The defendant, ROLAND J.B. MORA, understands and agrees  
16 that any and all assets or portions thereof acquired or obtained  
17 by him as a direct or indirect result of illegal trafficking in  
18 drugs or used to facilitate such illegal activity shall be  
19 surrendered to the United States or any lawful agency as may be  
20 directed by the Court. The assets to be surrendered include, but  
21 are not limited to cash, stocks, bonds, certificates of deposit,  
22 personal property and real property.

23 4. The defendant, ROLAND J.B. MORA, further agrees to  
24 submit to a polygraph examination by any qualified Federal  
25 polygraph examiner. The defendant understands that such

1 polygraph examinations may include, but will not be limited to,  
2 his knowledge of or involvement in unlawful drug related  
3 activities, his knowledge of others' involvement in unlawful drug  
4 related activities, and the identification of any and all assets  
5 and conveyances acquired in whole or in part by the defendant or  
6 others through unlawful drug related activities or the use of  
7 such assets or conveyances to further such unlawful activities.  
8 Defendant understands that the government will rely on the  
9 polygraph in assessing whether he has been fully truthful.

10 5. The defendant, ROLAND J.B. MORA, understands that the  
11 maximum sentence for Attempted Possession with Intent to  
12 Distribute approximately 850 grams gross weight of  
13 methamphetamine hydrochloride (ice) is life imprisonment with a  
14 mandatory minimum term of ten (10) years incarceration, a  
15 \$4,000,000 fine, and a \$100 special assessment fee, which must be  
16 paid at the time of sentencing. Any sentence imposed shall  
17 include a term of supervised release of at least five (5) years  
18 in addition to such terms of imprisonment. Defendant understands  
19 that, if at any time while he is on supervised release he  
20 violates one of its conditions, his supervised release may be  
21 revoked and he may be subject to an additional term of  
22 imprisonment. If defendant cooperates as set forth in Paragraphs  
23 2, 3, and 4, the government will recommend that defendant receive  
24 the statutory minimum, if applicable, or minimum term of  
incarceration recommended by the Sentencing Guidelines, whichever

1 is greater. In addition, if defendant provides full, truthful,  
2 and substantial assistance to investigating federal agencies, the  
3 government will move the Court, as provided by USSG 5K.1.1, and  
4 18 U.S.C. § 3553(e), for a downward departure from the Guidelines  
5 and the statutory minimum sentence. Defendant understands that  
6 "substantial assistance" encompasses such significant and useful  
7 assistance directed to the investigation and prosecution of the  
8 criminal activities of other persons, as is set forth by USSG  
9 5K1.1. Defendant also understands that the decision whether to  
10 depart from the Guidelines, and the statutory minimum sentence,  
11 and to what degree, is within the discretion of the sentencing  
12 judge. The government agrees not to take a position concerning  
13 that amount of incarceration the court should impose. If  
14 defendant does not fully cooperate as set forth in Paragraphs 2,  
15 3, and 4, the government will recommend whatever sentence of  
16 incarceration within the Guidelines range it may deem  
17 appropriate.

18 The government will recommend a fine within the Sentencing  
19 Guidelines range. If defendant is financially unable to  
20 immediately pay the fine in full, defendant agrees to make a full  
21 disclosure of his financial status to the United States  
22 Attorney's Office by completing a Financial Disclosure Form (OBD-  
23 500) for purpose of fixing a monthly payment schedule. Defendant  
24 understands that, by law, interest accrues on any remaining  
; balance of the debt.

1       6. The defendant understands that to establish a violation  
2 of importation of a controlled substance, pursuant to 21 U.S.C. §  
3 841(a)(1), the government must prove each of the following  
4 elements beyond a reasonable doubt:

5           First: the defendant intended to possess  
6 methamphetamine hydrochloride (ice) with the  
intent to deliver it to another person; and

7           Second: the defendant did something that was a  
8 substantial step toward committing the crime.

9       7. The defendant understands that the Sentencing Guidelines  
10 apply to this offense. The defendant also understands that the  
11 facts he stipulates to herein will be used, pursuant to 1B1.2, in  
12 calculating the applicable guidelines level, even though the  
13 counts underlying this conduct may be dismissed. The Government  
14 and the defendant stipulate to the following facts for purposes  
15 of the Sentencing Guidelines:

16           a. The defendant was born August 22, 1974 and is a  
17 citizen of the United States.

18           b. If the defendant cooperates with the United States  
19 by providing information concerning the unlawful activities of  
20 others, the government agrees that any self-incriminating  
21 information so provided will not be used against defendant in  
22 assessing his punishment, and therefore, pursuant to § 1B1.3 of  
23 the Sentencing Guidelines, this information should not be used in  
24 determining the applicable guidelines range.

25           c. Defendant is an employee of Lufthansa Service Guam.  
26 Among his duties, he boards planes after they have arrived on

1 Guam and removes the trays, utensils and other items related to  
2 food service on the plane. In 1998 he was approached by a  
3 person, who asked him to use his position to retrieve bags of ice  
4 being imported from the Philippines to Guam aboard the daily  
5 Continental flight from Manila. Mora agreed. On three occasions  
6 during 1998 and January, 1999, he and confederates removed  
7 packages of ice which had been hidden on the plane by couriers  
8 traveling from Manila to Guam. On each occasion he delivered the  
9 packages of ice to other people working for the person. He would  
10 be paid \$1,500 per package. On February 2, 1999, Mora was  
11 advised that ice would be secreted in seats on the Continental  
12 Manila flight, and he intended to retrieve it.

13 When Continental flight 912 arrived on Guam February 4,  
14 1999, the passengers deplaned and Guam Customs officers and  
15 narcotics dogs made their customary sweep through the plane.  
16 Eight packages of ice, approximately 850 grams gross weight, was  
17 discovered hidden in seats on the plane. Guam Customs and DEA  
18 agents removed the ice and repackaged it with six packages of  
19 sham. Later defendant and LSG employee Roland De Guzman boarded  
20 the flight and cleared the LSG items from the galleys. Defendant  
21 had told De Guzman that the ice was hidden in the seats. De  
22 Guzman took five packages of sham from where they were hidden in  
23 the seats and put them in the trash cart. Defendant put the  
24 trash cart into the LSG truck. He intended to deliver the  
packages to the person who had directed him to recover them, or



1 to members of his ring.

2 d. The defendant understands that notwithstanding any  
3 agreement of the parties, the United States Probation Office will  
4 make an independent application of the Sentencing Guidelines.  
5 The defendant acknowledges that should there be discrepancies in  
6 the final sentencing guidelines range projected by his counsel or  
7 any other person, such discrepancies are not a basis to withdraw  
8 his guilty plea.

9 8. The defendant understands that this plea agreement  
10 depends on the fullness and truthfulness of his cooperation.  
11 Therefore, defendant understands and agrees that if he should  
12 fail to fulfill completely each and every one of his obligations  
13 under this plea agreement, or make material omissions or  
14 intentional misstatements or engage in criminal conduct after the  
15 entry of his plea agreement and before sentencing, the government  
16 will be free from its obligations under the plea agreement; thus  
17 defendant, in addition to standing guilty of the matters to which  
18 he has pled pursuant to this agreement, shall also be fully  
19 subject to criminal prosecution for other crimes, and for the  
20 counts which were to be dismissed. In any such prosecution, the  
21 prosecuting authorities, whether Federal, State, or Local, shall  
22 be free to use against him, without limitation, any and all  
23 information, in whatever form, that he has provided pursuant to  
24 this plea agreement or otherwise; defendant shall not assert any  
25 claim under the United States Constitution, any statute, Rule

1 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of  
2 the Federal Rules of Evidence, or any other provision of law, to  
3 attempt to bar such use of the information.

4 9. The defendant understands that his sentencing may be  
5 continued, at the sole discretion of the United States, until  
6 after the indictment and trial of any associates involved. This  
7 will also enable the Court to see the full degree of the  
8 defendant's cooperation. The defendant therefore waives any  
9 right he may have to any speedy sentencing and hereby agrees to  
10 any continuance of his sentencing date as it may become  
11 necessary.

12 10. The defendant waives any right to appeal or to  
13 collaterally attack this conviction but reserves the right to  
14 appeal the sentence imposed in this case.

15 11. The defendant acknowledges that he has been advised of  
16 his rights as set forth below prior to entering into this plea  
17 agreement. Specifically, defendant has been fully advised of,  
18 has had sufficient opportunity to reflect upon, and understands  
19 the following:

20 a. The nature and elements of the charge and the  
21 mandatory minimum penalty provided by law, if any, and the  
22 maximum possible penalty provided by law;

23 b. His right to be represented by an attorney;

24 c. His right to plead not guilty and the right to be  
25 tried by a jury and at that trial, the right to be represented by  
26

1 counsel, the right to confront and cross-examine witnesses  
2 against him, and the right not to be compelled to incriminate  
3 himself, that is, the right not to testify;

4 d. That if he pleads guilty, there will not be a  
5 further trial of any kind on the charges to which such plea is  
6 entered so that by entering into this plea agreement, he waives,  
7 that is, gives up, the right to a trial;

8 e. That, upon entry of a plea of guilty, or thereafter,  
9 the Court may ask his questions about the offenses to which he  
10 has pled, under oath, and that if he answers these questions  
11 under oath, on the record, his answers may later be used against  
12 him in prosecution for perjury or false statement if an answer is  
13 untrue;

14 f. That he agrees that the plea agreement is voluntary  
15 and not a result of any force, threats or promises apart from  
16 this plea agreement;

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

1 g. The defendant is satisfied with the representation  
2 of his lawyer and feels that his lawyer has done everything  
3 possible for his defense.  
4

5 DATED:

2/17/99

Roland J.B. Mora  
ROLAND J.B. MORA  
Defendant

6  
7  
8 DATED:

2/17/99

Joaquin C. Arriola, Jr.  
JOAQUIN C. ARRIOLA, JR.  
Attorney for Defendant

Frederick A. Black  
FREDERICK A. BLACK  
United States Attorney  
Districts of Guam and CNMI

9  
10  
11  
12  
13 DATED:

2/17/99

By:

Karon V. Johnson  
KARON V. JOHNSON  
Assistant U.S. Attorney

**FILE  
COPY***deguz.ltr*HIGHSMITH & O'MALLAN, P.C.  
ATTORNEYS AT LAWSuite 502 A, Pacific News Building  
238 Archbishop Flores Street  
Agana, Guam 96910(671) 472-7332  
FAX (671) 472-7334/7215

FEB 12 1999

TIME: 4:30 pm  
BY: [Signature]

February 12, 1999

J. Basil O'Mallen, III  
Attorney at Law  
134 Chalan Santo Papa, Ste. 204  
Agana, Guam 96910Re: United States v. Roland Asprer DeGuzman

Dear Basil,

DeGuzman and his partner Roland Mora were arrested last week by DEA as they left a Continental plane which they had just serviced for LSG. Eight packages of ice had been discovered on the flight, which just arrived from Manila. DEA had replaced the ice with sham, which ended up in DeGuzman and Mora's service truck.

Although initially both men denied knowing what it was, eventually they both confessed. Because both are in a position to give substantial assistance, we released them as soon as they agreed to cooperate, and asked the Court appoint counsel for them. Jay Arriola is representing Mora; Rose advises me that you would be assigned DeGuzman, as the next attorney up on the panel.

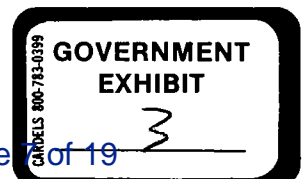
I am enclosing a plea offer, proposed information and reports concerning DeGuzman's statements. Ironically, he appears not to know that there was a load on the February 4 flight. He admitted moving four packages on a December flight he and Mora serviced, so the plea is to that matter.

Please call if you have any questions.

Sincerely,

FREDERICK A. BLACK  
United States Attorney  
Districts of Guam and NMI

By:

[Signature]  
KARON V. JOHNSON  
Assistant U.S. Attorney

1 DeGuzman.INF

2 FREDERICK A. BLACK

3 United States Attorney

4 KARON V. JOHNSON

5 Assistant U.S. Attorney

6 Suite 502-A, Pacific News Bldg.

7 238 Archbishop Flores St.

8 Agana, Guam 96910

9 Telephone: (671) 472-7332/7283

10 Telecopier: (671) 472-7334/7215

HIGHSMITH & O'MALLAN, P.C.

ATTORNEYS AT LAW

FEB 12 1999

11 Attorneys for United States of America

TIME: 12:30 pm

BY: N

12 **IN THE UNITED STATES DISTRICT COURT**

13 **FOR THE TERRITORY OF GUAM**

14 UNITED STATES OF AMERICA, )

CRIMINAL CASE NO. \_\_\_\_\_

15 Plaintiff, )

**INFORMATION**

16 vs. )

**DISTRIBUTION OF METHAMPHETAMINE**

17 ROLAND ASPRER DEGUZMAN, )

**HYDROCHLORIDE**

**[21 U.S.C. § 841(a)(1)]**

18 Defendant. )

19 **THE UNITED STATES ATTORNEY CHARGES:**

20 During December, 1998, in the District of Guam, the defendant herein, ROLAND ASPRER

21 DEGUZMAN, did unlawfully and knowingly possess with intent to distribute approximately 40

22 \\\

23 \\\

24 \\\

25 \\\

26 \\\

27 \\\

28 \\\

1 grams gross weight of methamphetamine hydrochloride, also known as ice, a Schedule II control  
2 substance, all in violation of 18 U.S.C. § 2 and 21 U.S.C. § 841(a)(1).

3 Dated this \_\_\_\_\_ day of February, 1998.

4 FREDERICK A. BLACK  
5 United States Attorney  
6 Districts of Guam and CNMI

7 By: \_\_\_\_\_  
8 KARON V. JOHNSON  
9 Assistant U.S. Attorney  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



DeGuz.PLE

FREDERICK A. BLACK  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 502-A, Pacific News Bldg.  
238 Archbishop Flores Street  
Agana, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334

HIGHSMITH & O'MALLIAN, P.C.  
ATTORNEYS A L W

FEB 12 1999

Attorneys for United States of America

TIME: 4:30 pm  
BY: [Signature]

IN THE UNITED STATES DISTRICT COURT  
FOR THE TERRITORY OF GUAM

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

ROLAND ASPRER DE GUZMAN,  
Defendant.

CRIMINAL CASE NO. \_\_\_\_\_

**PLEA AGREEMENT**

Pursuant to Rule 11(e)(1)(B), the United States and the defendant, ROLAND ASPRER DE GUZMAN, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to an Information charging him with Distribution of approximately 850 grams gross weight of methamphetamine hydrochloride (ice), in violation of Title 21 U.S.C. § 841(a)(1).
2. The defendant, ROLAND ASPRER DE GUZMAN, further agrees to fully and truthfully cooperate with Federal law enforcement agents concerning their investigation of the importation, possession, and distribution of controlled substances and related unlawful activities, including the disposition of profits from and assets relating to such activities. He agrees to testify fully and truthfully before any grand juries and at any trials or proceedings if called upon to do so by the United States, subject to prosecution for perjury for not testifying truthfully. The United States will make this cooperation known to the Court prior to the defendant's sentencing. The defendant

1 further understands that he remains liable and subject to prosecution for any criminal narcotic  
2 schemes of which he does not fully advise the United States, or for any material omissions in this  
3 regard. In return for this cooperation, the United States agrees not to prosecute defendant for any  
4 other non-violent narcotic offenses now known to the government or which he reveals to Federal  
5 authorities.

6  
7 3. The defendant, ROLAND ASPRER DE GUZMAN, understands and agrees that any  
8 and all assets or portions thereof acquired or obtained by him as a direct or indirect result of illegal  
9 trafficking in drugs or used to facilitate such illegal activity shall be surrendered to the United  
10 States or any lawful agency as may be directed by the Court. The assets to be surrendered include  
11 but are not limited to cash, stocks, bonds, certificates of deposit, personal property and real  
12 property.

13 4. The defendant, ROLAND ASPRER DE GUZMAN, further agrees to submit to a  
14 polygraph examination by any qualified Federal polygraph examiner. The defendant understands  
15 that such polygraph examinations may include, but will not be limited to, his knowledge of or  
16 involvement in unlawful drug related activities, his knowledge of others' involvement in unlawful  
17 drug related activities, and the identification of any and all assets and conveyances acquired in  
18 whole or in part by the defendant or others through unlawful drug related activities or the use of  
19 such assets or conveyances to further such unlawful activities. Defendant understands that the  
20 government will rely on the polygraph in assessing whether he has been fully truthful.

21 5. The defendant, ROLAND ASPRER DE GUZMAN, understands that the maximum  
22 sentence for Distribution of approximately 400 grams gross weight of methamphetamine  
23 hydrochloride (ice) is life imprisonment with a mandatory minimum term of ten (10) years  
24 incarceration, a \$4,000,000 fine, and a \$100 special assessment fee, which must be paid at the time  
25 of sentencing. Any sentence imposed shall include a term of supervised release of at least five (5)  
26 years in addition to such terms of imprisonment. Defendant understands that, if at any time while he  
27 is on supervised release he violates one of its conditions, his supervised release may be revoked and  
28 he may be subject to an additional term of imprisonment. If defendant cooperates as set forth in

1 Paragraphs 2, 3, and 4, the government will recommend that defendant receive the statutory  
2 minimum, if applicable, or minimum term of incarceration recommended by the Sentencing  
3 Guidelines, whichever is greater. In addition, if defendant provides full, truthful, and substantial  
4 assistance to investigating federal agencies, the government will move the Court, as provided by  
5 USSG 5K1.1, and 18 U.S.C. § 3553(e), for a downward departure from the Guidelines and the  
6 statutory minimum sentence. Defendant understands that "substantial assistance" encompasses  
7 such significant and useful assistance directed to the investigation and prosecution of the criminal  
8 activities of other persons, as is set forth by USSG 5K1.1. Defendant also understands that the  
9 decision whether to depart from the Guidelines, and the statutory minimum sentence, and to what  
10 degree, is within the discretion of the sentencing judge. The government agrees not to take a  
11 position concerning that amount of incarceration the court should impose. If defendant does not  
12 fully cooperate as set forth in Paragraphs 2, 3, and 4, the government will recommend whatever  
13 sentence of incarceration within the Guidelines range it may deem appropriate.

14 The government will recommend a fine within the Sentencing Guidelines range. If  
15 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a full  
16 disclosure of his financial status to the United States Attorney's Office by completing a Financial  
17 Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule. Defendant  
18 understands that, by law, interest accrues on any remaining balance of the debt.

19 6. The defendant understands that to establish a violation of importation of a controlled  
20 substance, pursuant to 21 U.S.C. § 952, the government must prove each of the following elements  
21 beyond a reasonable doubt:

22 First: the defendant knowingly distributed  
23 methamphetamine hydrochloride (ice) to another  
24 person;

25 Second: the defendant knew it was methamphetamine  
26 hydrochloride or some other prohibited drug.

27 7. The defendant understands that the Sentencing Guidelines apply to this offense. The  
28 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,

1 calculating the applicable guidelines level, even though the counts underlying this conduct ma  
2 dismissed. The Government and the defendant stipulate to the following facts for purposes of  
3 Sentencing Guidelines:

4 a. The defendant was born May 4, 1955, and is a citizen of the United States.

5 b. If the defendant cooperates with the United States by providing information  
6 concerning the unlawful activities of others, the government agrees that any self-incriminating  
7 information so provided will not be used against defendant in assessing his punishment, and  
8 therefore, pursuant to § 1B1.3 of the Sentencing Guidelines, this information should not be us  
9 determining the applicable guidelines range.

10 c. Defendant is an employee of Lufthansa Service Guam (LSG). Among his duties  
11 boards planes after they have arrived on Guam and removes the trays, utensils and other items  
12 related to food service on the plane. In 1998, he was approached by other employees at LSG  
13 asked to smuggle drugs off flights originating from the Philippines. In December, 1998, he and  
14 LSG employee Roland Mora were servicing a flight which had arrived from Manila, and which  
15 knew contained packages of ice concealed by couriers in certain passenger seats. Defendant  
16 retrieved four packages, each approximately 8 inches in length and 2 inches in width, from a  
17 designated row of seats. He gave them to Mora, who placed them in the LSG truck and drove  
18 them off the airport grounds. Ultimately, Mora delivered them to members of a drug ring.  
19 Defendant received \$1,500 from Mora for retrieving the four packages. Defendant did not kn  
20 specifically which illegal substance was being smuggled into Guam, but he knew the packages  
21 contained a illegal controlled substance.

22 d. The defendant understands that notwithstanding any agreement of the parties, the  
23 United States Probation Office will make an independent application of the Sentencing Guideli  
24 The defendant acknowledges that should there be discrepancies in the final sentencing guidelin  
25 range projected by his counsel or any other person, such discrepancies are not a basis to withdr  
26 his guilty plea.

27 8. The defendant understands that this plea agreement depends on the fullness and  
28

1 truthfulness of his cooperation. Therefore, defendant understands and agrees that if he should  
2 to fulfill completely each and every one of his obligations under this plea agreement, or make  
3 material omissions or intentional misstatements or engage in criminal conduct after the entry  
4 plea agreement and before sentencing, the government will be free from its obligations under  
5 plea agreement; thus defendant, in addition to standing guilty of the matters to which he has  
6 pursuant to this agreement, shall also be fully subject to criminal prosecution for other crimes  
7 for the counts which were to be dismissed. In any such prosecution, the prosecuting authority  
8 whether Federal, State, or Local, shall be free to use against him, without limitation, any and  
9 information, in whatever form, that he has provided pursuant to this plea agreement or otherwise.  
10 defendant shall not assert any claim under the United States Constitution, any statute, Rule 1  
11 of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any  
12 other provision of law, to attempt to bar such use of the information.  
13

14 9. The defendant understands that his sentencing may be continued, at the sole discretion  
15 the United States, until after the indictment and trial of any associates involved. This will also  
16 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
17 waives any right he may have to any speedy sentencing and hereby agrees to any continuance  
18 sentencing date as it may become necessary.

19 10. The defendant waives any right to appeal or to collaterally attack this conviction  
20 reserves the right to appeal the sentence imposed in this case.

21 11. The defendant acknowledges that he has been advised of his rights as set forth below  
22 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
23 sufficient opportunity to reflect upon, and understands the following:

24 a. The nature and elements of the charge and the mandatory minimum penalty provided  
25 by law, if any, and the maximum possible penalty provided by law;

26 b. His right to be represented by an attorney;

27 c. His right to plead not guilty and the right to be tried by a jury and at that trial, the  
28 right to be represented by counsel, the right to confront and cross-examine witnesses against him

1 and the right not to be compelled to incriminate himself, that is, the right not to testify;

2 d. That if he pleads guilty, there will not be a further trial of any kind on the charge  
3 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
4 the right to a trial;

5 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask his question  
6 about the offenses to which he has pled, under oath, and that if he answers these questions under  
7 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
8 statement if an answer is untrue;

9 f. That he agrees that the plea agreement is voluntary and not a result of any force,  
10 threats or promises apart from this plea agreement;

11 g. The defendant is satisfied with the representation of his lawyer and feels that his  
12 lawyer has done everything possible for his defense.  
13

14  
15 DATED: \_\_\_\_\_

ROLAND ASPRER DE GUZMAN  
Defendant

16  
17 DATED: \_\_\_\_\_

JAMES BASIL O'MALLEN, III  
Attorney for Defendant

18  
19  
20 FREDERICK A. BLACK  
United States Attorney  
Districts of Guam and CNMI

21  
22 DATED: \_\_\_\_\_

By:

KARON V. JOHNSON  
Assistant U.S. Attorney

**From:** Linda Albimino  
**To:** John Curry  
**Date:** 6/18/05 2:57am  
**Subject:** FW: FID #860032

Hi John:  
Please see below for the NCIC history on FID #860032.

-----Original Message-----

**From:** Newcomb, Larry (USMS)  
**Sent:** Friday, June 17, 2005 12:52 PM  
**To:** Albimino, Linda (USMS)  
**Cc:** Jenkins, Debra (USMS)  
**Subject:** RE: FID #860032

Entered by David Punzalan on 5/6/2004.  
Closed by John Curry on 5/2/2005.

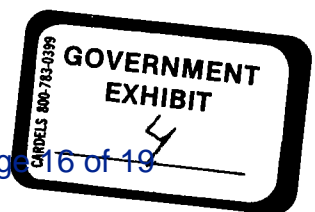
-----Original Message-----

**From:** Albimino, Linda (USMS)  
**Sent:** Friday, June 17, 2005 12:32 PM  
**To:** Newcomb, Larry (USMS)  
**Cc:** Jenkins, Debra (USMS)  
**Subject:** FID #860032

Hi Larry:  
Guam requested a check of the NCIC logs to determine who entered and closed the record on FID #860032 (Roland Asprer DE GUZMAN).

Thank you --

Linda Albimino  
Analytical Support Unit  
Investigative Services Division  
U. S. Marshals Service  
(202) 307-9265  
(202) 307-9650 (fax)







# UNITED STATES MARSHALS SERVICE

District of Guam

344 United States District Courthouse

520 West Soledad Avenue

Hagatna, Guam 96910

Office: 671-477-7827 (STAR)

Facsimile: 671-473-9195

TO: K. Johnson

FROM: John Curry (J.C.)

DATE: 6/22/05

NUMBER OF PAGES: 1 Excluding Cover Sheet

COMMENTS: NCIC Info

898-6803  
Cell

GUAM IS AN UNITED STATES TERRITORY. GUAM IS ON THE OTHER SIDE OF THE INTERNATIONAL DATELINE FROM THE U.S. MAINLAND. WHEN IT IS 12:00 NOON, JANUARY 1<sup>ST</sup> IN LOS ANGELES, IT IS 6:00 A.M. JANUARY 2<sup>ND</sup> ON GUAM. PLEASE NOTE: WHEN THE CONTINENTAL U.S. IS ON DAYLIGHT SAVINGS TIME, ADD ONE HOUR TO THE TIME FOR YOUR RESPECTIVE U.S. REGION

The Secretary of State of the United States of America  
hereby requests all whom it may concern to permit the citizen/national  
of the United States named herein to pass without delay or hindrance  
and in case of need to give all lawful aid and protection.

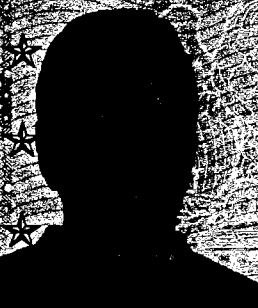
Le Secrétaire d'Etat des Etats-Unis d'Amérique  
prie par les présentes toutes autorités compétentes de laisser passer le citoyen  
nécessitant des Etats-Unis titulaire du présent passeport, sans délai ni  
difficulté et, en cas de besoin, de lui rendre toute aide et protection légitimes.

El Secretario de Estado de los Estados Unidos de América por el presente solicita a las  
autoridades competentes permitir el paso del ciudadano o nacional de los Estados Unidos  
aquí nombrado, sin demora ni dificultades, y en caso de necesidad, prestarle toda la  
ayuda y protección lícitas.

Roland A. D. Guzman  
SIGNATURE OF BEARER/SIGNATURE DU TITULAIRE/FIRMA DEL TITULAR

NOT VALID UNTIL SIGNED

PASSEPORT  
PASAPORTE  
USA



UNITED STATES OF AMERICA

DE GUZMAN  
ROLAND ASPREN

Nationality / Nationalité / Nacionalidad  
UNITED STATES OF AMERICA

Date of birth / Date de naissance / Fecha de nacimiento  
04 May 1966

Sex / Sexe / Sexo  
M

Place of birth / Lieu de naissance / Lugar de nacimiento  
PHILIPPINES

Date of issue / Date de délivrance / Fecha de expedición  
01 May 2003

Date of expiration / Date d'expiration / Fecha de vencimiento  
30 Apr 2013

Amendments / Modifications / Enmiendas  
See Page 24

P<USAD<GUZMAN<ROLAND<ASPREN<

2085400290USA5505049M1404305<<<<





## WHILE IN THE FOREIGN COUNTRY

1. Register with the U.S. Embassy: When traveling to remote or volatile areas, visiting a foreign country for a prolonged stay, or residing abroad — register with the U.S. embassy or consulate by telephone, fax or in person.
2. Be mindful of security threats: Do not leave luggage unattended in public areas or accept packages from strangers.
3. Avoid violating local laws: Deal only with authorized agents when exchanging money or purchasing souvenirs.
4. Trouble: Contact the nearest U.S. embassy or consulate. If you are arrested, demand to see the U.S. consul.
5. Disaster and Catastrophic Events: If a catastrophic event occurs, call home to let family and friends know you are okay. If you require assistance, contact the nearest U.S. embassy or consulate.
6. U.S. Taxes: All U.S. citizens working and residing overseas are required to file and report on their worldwide income. Consult the IRS at [http://www.irs.us/retirees.gov/prod/tax\\_advice/tax\\_advice.html](http://www.irs.us/retirees.gov/prod/tax_advice/tax_advice.html) for "Tax Information for Aliens and U.S. Citizens Living Abroad." See also IRS Publication 54, "Tax Guide for U.S. Citizens and Resident Aliens Abroad."
7. Social Security: Inquiries should be directed to the Social Security Administration, Office of International Programs, [http://www.ssa.gov/international/mkt\\_intro.html](http://www.ssa.gov/international/mkt_intro.html), or write to Social Security Administration, Office of International Operations, P.O. Box 17769, Baltimore, MD 21225, or contact the nearest U.S. Social Security office in the United States or at the U.S. embassy or consulate abroad.
8. Loss of U.S. Citizenship: Under certain circumstances, you may lose your U.S. citizenship by performing voluntarily and with

the intention to relinquish U.S. citizenship, any of the following acts: (1) becoming naturalized in a foreign state; (2) taking an oath or making a declaration to a foreign state; (3) serving in the armed forces of a foreign state; (4) accepting employment with a foreign government; or (5) formally renouncing U.S. citizenship before a U.S. consular officer overseas. Consult the nearest American embassy or consulate, or contact the Office of American Citizens Services and Crisis Management, Department of State, 2201 C Street, N.W., Room 4817, Washington, D.C. 20520-4818, or call 1-202-847-5225. You may continue to have U.S. tax liability even if you lose U.S. nationality. Address questions on this topic to the IRS.

8. Dual Citizens: A person who has the citizenship of more than one country at the same time is considered a dual citizen. A dual citizen may be subject to the laws of the other country that considers that person its citizen while in that country's jurisdiction, including conscription for military service. Dual nationality may hamper efforts to provide U.S. consular protection to dual citizens in the foreign country of their other nationality. Dual citizens who encounter problems abroad should contact the nearest American embassy or consulate.

## OTHER IMPORTANT INFORMATION

1. U.S. Customs Service: Contact the U.S. Customs Service, <http://www.customs.us/customs.gov/> for a copy of "Know Before You Go" and "Pets, Wildlife, U.S. Customs."
2. Agriculture: Consult the U.S. Department of Agriculture, <http://www.aphis.usda.gov/oas/travel.html> for a copy of "Travelers Tips On Bringing Food, Plant, and Animal Products into the United States." See also U.S. Fish and Wildlife Service, "Facts About Federal Wildlife Laws," <http://www.fws.gov/laws/facts.html>.

# IMPORTANT THINGS TO REMEMBER ABOUT YOUR PASSPORT

1. It is unlawful for any person other than the named bearer to use this passport. Use of this passport in contravention of the passport regulations or of the conditions or restrictions set out in this passport, or for travel to countries where a U.S. passport is not valid is a felony. Title 18, U.S. Code, Section 1544. For further information, contact the nearest U.S. embassy or consulate or the Department of State, Office of Passport Policy, Planning and Legal Advisory Services, 202-955-0231.
2. U.S. Government Property: This passport is the property of the United States Government. Upon demand made by an authorized representative of the United States Government, it must be surrendered.
3. Loss, theft, or destruction of passport should be reported immediately to local police authorities and to Passport Services, Washington, D.C. 20520-4818, or, if overseas, to the nearest American embassy or consulate. Your passport is a valuable citizenship and identity document, which should be carefully safeguarded.
4. Alteration or mutilation of passport: The passport must not be altered or mutilated in any way. Alteration may include, but is not limited to, changing the name, date of birth, sex, or place of birth, and, if willful, may subject you to prosecution (Title 18, U.S. Code, Section 1543). Only authorized officials of the United States or of foreign countries, in connection with official matters, may place stamps or make statements, notations or additions in this passport. You may amend or update personal information for your own convenience on page 7.

## PERSONAL DATA AND EMERGENCY CONTACT INFORMATION

FOR YOUR PROTECTION, FILL IN THE NAMES AND ADDRESSES PLEASE KEEP THESE ENTRIES UP TO DATE

BEARER'S ADDRESS IN THE UNITED STATES:  
ADRESSE DU TITULAIRE AUX ETATS-UNIS:  
DIRECCION DEL PORTADOR EN LOS ESTADOS UNIDOS:

BEARER'S FOREIGN ADDRESS:  
ADRESSE DU TITULAIRE EN ETANGER:  
DIRECCION DEL PORTADOR EN EL EXTRANJERO:

IN CASE OF EMERGENCY, NOTIFY THE NEAREST AMERICAN EMBASSY, CONSULATE OR THE STATE DEPARTMENT OFFICE OF AMERICAN SERVICES AND CRISIS MANAGEMENT, AT 202-647-5225, AND THE GENCY CONTACT YOU NAME BELOW:

EN CAS D'URGENCE, PRIERE D'AVISER L'AMBASSADE OU LE GO DES ETATS-UNIS LE PLUS PROCHAIN, AU BUREAU DES SERVICES AUX AMERICAINS ET DE REPONSE AUX CRISES, AU 202-647-5225, AINSI QUE LA PERSONNE QUE VOUS DE GENEZ SOUS:

EN CAS DE EMERGENCIA, NOTIFIQUE A LA EMBAJADA O CONSUL PARA ESTADOS UNIDOS Y/O AL CENTRO DE EMERGENCIAS PARA CIUDADANOS Y GESTION DE CRISIS DE ESTADOS UNIDOS POR EL TELEFONO 202-647-5225 Y A LA PERSONA QUE SE EN CONTINUACION.

Address DIRECCION	Telephone Telefono
Name Nom	Telephone Telefono

外国人用

- 活字体で記入して下さい。
- 折らないで下さい。
- カード②は出国時に入国審査官へ提出するものです。
- \* Please type or print.
- \* Do not fold.
- \* CARD ② is to be submitted to the Immigration Inspector at the time of your departure from Japan.



外国人用

